REMARKS

Claims 39, 40, 42 and 43 have been amended. No claims have been cancelled, and no new claims have been added. Claims 1-27 were earlier withdrawn. Claims 28-44 are pending.

Disclaimers Relating to Claim Interpretation and Prosecution History Estoppel

Claims have been amended, and claims have been canceled, notwithstanding the belief that these claims were allowable. Except as specifically admitted below, no claim elements have been narrowed. Rather, cosmetic amendments have been made to the claims to broaden them in view of the cited art. Claims have been amended solely for the purpose of expediting the patent application process, and the amendments were not necessary for patentability.

The claims of this application are intended to stand on their own and are not to be read in light of the prosecution history of any related or unrelated patent or patent application. Furthermore, no arguments in any prosecution history relate to any claim in this application, except for arguments specifically directed to the claim.

Claim Rejections - 35 USC § 102(e)

The Examiner rejected claims 28-34, 36, 37, 39-40, 42 and 43 under 35 USC § 102(e) as anticipated by Hollis (US 6,804,777). This rejection is respectfully traversed.

Regarding claims 28 and 32, the Office Action asserts that the claimed first computing device is taught by the user workstation (not numbered) shown in Fig. 2 and that the first network is taught by element 270, the external resource. We concur that a first network is taught, but that it is not taught by element 270. Hollis explicitly states that "The external resource may be a server application program." (Hollis, col. 5, line 6) Moreover, as shown in the drawings, the external resource 370 and target resource 460 are both depicted using a graphic typically used for a disk drive. It follows then that element 270 is an application program or a disk drive. Whether element 270 is an application program or a disk drive, neither teach a network as claimed. As such, the external resource of Hollis fails to teach the claimed first network.

Again, we concur that a first network is taught, but that it is not taught by element 270. However, there is no teaching of a second network in Hollis. And the Final Office Action fails to assert where Hollis teaches the second network. The Final Office Action is silent as to where Hollis teaches the second network. See Final Office Action bottom of p. 2 to top of p. 3.

The Final Office Action in the Response to Arguments section on p. 7 divines the second network in view of Figs. 2 and 3. The Final Office Action asserts that because there is an external device, it must be connected by a second network. Why this is so is not made clear.

We direct the Examiner to Fig. 4. We ask that the examiner consider using Fig. 4 of Hollis in attempting to make arguments. We ask that the examiner consider asserting that the first computing device and first network may be taught by the various researchers 410, 412, 412, 414 and 416 and their computers. If so, the second computing device and the second network may taught by the channel gateway 450 and the communication line between the channel gateway 450 and the rendezvous point RVP 430. Some other correspondence between the claims and Fig. 4 may also be asserted. If Fig. 4 is used, this may allow for a more cogent argument to be made. However, based on the teachings of Hollis as shown in Fig. 4, it becomes clear that Hollis does not teach the two networks recited in the claims.

As written, the Final Office Action is defective as it does not establish a *prima facie* case of anticipation. The Final Office Action fails to show how each and every claim limitation is taught by Hollis. The Final Office Action fails to show what the Examiner is asserting to be the first network and what the Examiner is asserting to be the second network as recited in the independent claims. As such, the Final Office Action is defective. Therefore, we request that a new Final Office Action be issued to cure these deficiencies.

As to the arguments made regarding the functionality recited in claims 28 and 32, the Final Office Action asserts that because "Hollis teaches in Column 8, lines 50-55, that traffic or 'data units' travel both ways between the user application in the user workstation and the gateway and the targeted resources", Hollis teaches the claimed limitations. However, in contrast, claim 28 recites receiving "**outgoing data unit requests** to send outgoing data units" as

claimed. That is, there is no teaching in Hollis of "outgoing data unit requests" that specify that outgoing data units should be sent onto the second network via the network device as claimed.

Further, the Final Office Action asserts that "receiving from a first computing device via the communication channel outgoing data unit requests to send outgoing data units onto the second network via the network device" is taught at col. 8, lines 37-46 of Hollis. However, this portion of Hollis states only that FIG. 3A of Hollis "shows a Channel Gateway 300 on a remote server for processing incoming messages to a server and FIG. 3B shows a Channel Gateway 350 on a remote server for processing incoming messages to a resource external to the server." This portion of Hollis does not teach "receiving from a first computing device via the communication channel **outgoing data unit requests** to send outgoing data units onto the second network via the network device" as recited in claim 28 (emphasis added). To the extent claim 32 has a similar limitation, this argument also applies to claim 32.

Because Hollis fails to teach each of the claimed limitations, claims 28 and 32 are patentable over Hollis. Moreover, all claims depending on claims 28 and 32 are patentable over Hollis by virtue of their dependency on claims 28 and 32. Thus, claims 28-35 are patentable over Hollis.

Regarding claims 36, 39 and 42, the Final Office Action improperly addresses these claims as a group. Claim 39 is directed to a network testing system that includes a network card. Claims 36 and 42 do not recite a network testing system that includes a network card. As such, claim 39 should not be evaluated with claims 36 and 42.

As to claim 36, this claim recites a "method for allowing a first computing device to access the capabilities of a network device included in a second computing device via a virtual interface". The Final Office Action asserts that the gateway is the second computing device and that Hollis "teaches a network appliance located within the gateway is connected through a virtual interface, element 334". However, claim 36 recites "receiving over a second network incoming data units directed to the network interface of the network device" and "forwarding the incoming data units to the first computing device via the communication channel". The gateway

in Hollis does not receive "over a second network incoming data units directed to" the network appliance located within the gateway and does not forward "the incoming data units to the" user workstation "via the communication channel" over the first network. As such, Hollis fails to teach "receiving over a second network incoming data units directed to the network interface of the network device" and "forwarding the incoming data units to the first computing device via the communication channel". Because Hollis fails to teach this claimed limitation, claim 36 is patentable over Hollis. Moreover, all claims depending on claim 36 are patentable over Hollis by virtue of their dependency on claim 36. Thus, claims 36-38 are patentable over Hollis.

As to claim 37, claim 37 recites, among other limitations, receiving "outgoing data unit requests from the first computing device". But the Office Action fails to assert that a computing device sends or receives the claimed "outgoing data unit requests". Therefore, claim 37 is also patentable over Hollis for this additional reason.

As to claims 39 and 42, the Final Office Action fails to assert that Hollis teaches a network testing system and network card as claimed. We assert that Hollis does not teach a network testing system or a network card as recited in claims 39 and 42. The Final Office Action asserts that when a claim term is used only in the preamble, the limitation may be read out of the claim, even when the functions recited in the claim are stated as being performed by a device or component included in the preamble. We disagree that this is the applicable rule. To move prosecution forward, we have amended claims 39, 40, 42 and 43 to explicitly recite the network testing system and network card already implied in each step of the pertinent claims. Because Hollis fails to teach each of the claimed limitations, claims 39 and 42 are patentable over Hollis. Moreover, all claims depending on claims 39 and 42 are patentable over Hollis by virtue of their dependency thereon. Thus, claims 39-41 and claims 42-44 are patentable over Hollis.

Claim Rejections - 35 USC § 103(a)

The Examiner rejected claims 38, 41 and 44 under 35 USC § 103(a) as rendered obvious by Hollis in view of Summers (7,124,189). This rejection is respectfully traversed.

Claims 38, 41 and 44 are patentable over Hollis for the reasons set forth above regarding the § 102 anticipation rejection. Summers does not cure the deficiencies of Hollis. Therefore, claims 38, 41 and 44 are patentable over the combination of Hollis and Summer.

Conclusion

It is submitted, however, that the independent and dependent claims include other significant and substantial recitations which are not disclosed in the cited references. Thus, the claims are also patentable for additional reasons. However, for economy the additional grounds for patentability are not set forth here.

In view of all of the above, it is respectfully submitted that the present application is now in condition for allowance. Reconsideration and reexamination are respectfully requested and allowance at an early date is solicited.

The Examiner is invited to call the undersigned to answer any questions or to discuss steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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Mark A. Goldstein
Reg. No. 50,759

SoCal IP Law Group LLP
310 N. Westlake Blvd., Suite 120
Westlake Village, CA 91362
Telephone: 805/230-1350 x240
Facsimile: 805/230-1355
email: mgoldstein@socalip.com